AOL Time Warner - Intel Joint Statement of Principles

Introduction: A Shared Vision

AOL Time Warner (AOLTW) and Intel succeed as businesses by delivering value to consumers. We believe that strong protection of intellectual property in both traditional and new environments is essential for realizing this value proposition. We have been working co-operatively, along with others, for several years to design solutions to the challenges posed by the digital environment so that its opportunities may be safely embraced to the benefit of all parties. While the issues are complex, we believe that focused cross-industry efforts have in the past and can in the future work well to meet the challenges. The process is not simple or easy; it involves the balancing of interests and demands negotiated compromises. Nevertheless, we believe that the lead must come from the private sector, complemented where necessary by targeted and constructive government action. We do not, however, think that the government can productively or effectively mandate broad design requirements across the spectrum of products, devices, and services.

Achievements To Date

Over the past several years, Intel and AOLTW have worked together with other companies in private sector cross-industry efforts to develop several content protection solutions. These solutions include Content Protection for Pre-recorded Media ("CPPM") for protecting pre-recorded audio content on DVD Audio, and protection for digital content as it moves among devices in the consumer home and personal environment on digital networks (Digital Transmission Content Protection ("DTCP") and High-bandwidth Digital Content Protection ("HDCP")) and recordable media (Content Protection for Recordable Media ("CPRM")). Both AOLTW and Intel have endorsed and are committed to the rapid deployment of all of these content protection solutions. The goal of these efforts is to create an overall architecture for protecting digital content throughout its distribution life so that it does not "leak" out in an unprotected manner for easy capture by digital pirates, including users who traffic in copyrighted works on peer to peer systems. In each case, the solutions have been developed by information technology ("IT") and consumer electronics ("CE") companies in consultation with studios and music labels and then implemented through private licenses. These content protection solutions are made available to all interested product manufacturers and content companies and are already enjoying adoption in the marketplace, with DVD video being the most notable example of wide marketplace adoption.

Current Opportunities and Challenges

Continued advances in digital technology offer both great opportunity and challenges. AOLTW and Intel both seek to embrace the opportunity of new digital technology and develop new modes of distribution that will bring value to consumers and our companies. We also realize that digital technology provides the ability to create easily and redistribute globally unlimited perfect copies, posing particularly damaging and challenging piracy risks. Such digital piracy should neither be tolerated nor subject to benign neglect. Securing adequate protection for copyrighted works in the digital environment will allow development of viable business models. Viable business models will in turn help drive adoption of broadband and the innovation and sale of new products (e.g. portable devices, PCs, digital televisions, and subscription services), and expanded

consumer choices through an increasing variety of formats, consumption options, and price points for enjoying copyrighted works.

Future Efforts

The industry efforts to date have concentrated on developing systems to secure content from its initial distribution through the delivery and consumption chain. These efforts are generally unable to provide protection when content is delivered "in the clear" to legacy systems. One such example is the protection of terrestrial digital broadcast that is delivered "in the clear." Both of our companies have been actively participating in the Broadcast Protection Discussion Group. Significant progress has been made towards a technical solution that would involve a "broadcast flag" to signal that redistribution of digital broadcast content over the Internet is not authorized. Both Intel and AOLTW acknowledge that in order to ensure that detection of and proper response to such a broadcast flag occurs in digital broadcast receiver products, some narrowly focused government regulation will be necessary. This is an example of how private multi-industry efforts can yield a technical solution where narrow government action is appropriate for proper enforcement of that consensus solution. Furthermore, this example also illustrates the value of government complementing productive cooperation among relevant industries to find solutions, as has been done in this instance through FCC and legislative forums.

Beyond digital broadcasting, additional issues exist that require serious private industry and public attention. One is the so-called "analog hole." Video content, even when delivered digitally in a protected manner, must be converted to an unprotected analog format to be viewed using legacy equipment (e.g., the millions of analog television sets already in consumers' homes). Once content is in an unprotected analog form, it may be converted back to a digital form and subjected to widespread, unauthorized redistribution via peer-to-peer as well as more traditional piracy channels. Private industry efforts are underway to select a watermark technology that can embed usage rules in content. Further efforts, including the possibility of narrowly focused government measures, will be required to determine the manner in which such a watermark technology can be best implemented to mitigate the analog hole.

An even more complicated problem is the phenomenon of unconstrained unauthorized copying and redistribution of copyrighted content over peer-to-peer networks. One contributing factor is the growing variety of increasingly decentralized peer-to-peer networks (e.g., Morpheus, Limewire, etc). Another is that content reaches peer to peer networks from a variety of sources including unprotected distribution, circumvention of protected content, camcording from theater screens, and diversion during production. No single silver bullet solution – technical, legal, legislative, or business – exists to address this thorny form of piracy. Broad government mandates that restrict innovation, reduce competition, and provide a fixed target for hackers are not the answer. Active co-operation and participation of all sectors--content, CE, IT, service providers, and government--will be necessary to develop a range of solutions to this complex problem.

We hope that this joint statement will spark constructive discussion among relevant industries, consumer groups and the general public. We invite others in the content, IT and CE industries to voice their support for the principles contained herein.